



Senate

General Assembly

File No. 355

January Session, 2003

Substitute Senate Bill No. 380

Senate, April 15, 2003

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT CONCERNING INFORMAL WORKERS' COMPENSATION
HEARINGS AND AN ACCIDENTAL FAILURE OF CLAIM STATUTE
FOR WORKERS' COMPENSATION CLAIMANTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-278 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) Each commissioner shall, for the purposes of this chapter, have
4 power to summon and examine under oath such witnesses, and may
5 direct the production of, and examine or cause to be produced or
6 examined, such books, records, vouchers, memoranda, documents,
7 letters, contracts or other papers in relation to any matter at issue as
8 [he] the commissioner may find proper, and shall have the same
9 powers in reference thereto as are vested in magistrates taking
10 depositions and shall have the power to order depositions pursuant to
11 section 52-148. [He] Each commissioner shall have power to certify to
12 official acts and shall have all powers necessary to enable [him] the

13 commissioner to perform the duties imposed upon [him] the
14 commissioner by the provisions of this chapter.

15 (b) Each commissioner shall hear all claims and questions arising
16 under this chapter in the district to which the commissioner is assigned
17 and all such claims shall be filed in the district in which the claim
18 arises, provided, if it is uncertain in which district a claim arises, or if a
19 claim arises out of several injuries or occupational diseases [which]
20 that occurred in one or more districts, the commissioner to whom the
21 first request for hearing is made shall hear and determine such claim to
22 the same extent as if it arose solely within [his] the commissioner's
23 own district. Each commissioner shall explain to each employee
24 appearing before the commissioner, in informal and readily
25 understandable language, the rights, benefits and responsibilities of
26 employees under the provisions of this chapter, including the
27 employee's right to request an informal hearing for the evaluation of a
28 disability rating, disfigurement or scar. If a commissioner is
29 disqualified or temporarily incapacitated from hearing any matter, or
30 if the parties shall so request and the chairman of the Workers'
31 Compensation Commission finds that it will facilitate a speedier
32 disposition of the claim, [he] the commissioner shall designate some
33 other commissioner to hear and decide such matter. The Superior
34 Court, on application of a commissioner or the chairman or the
35 Attorney General, may enforce, by appropriate decree or process, any
36 provision of this chapter or any proper order of a commissioner or the
37 chairman rendered pursuant to any such provision.

38 (c) Any [compensation] commissioner, after ceasing to hold office as
39 such [compensation] commissioner, may settle and dispose of all
40 matters relating to appealed cases, including correcting findings and
41 certifying records, as well as any other unfinished matters pertaining
42 to causes theretofore tried by [him] the commissioner, to the same
43 extent as if [he] the commissioner were still such compensation
44 commissioner.

45 Sec. 2. Subsection (c) of section 31-294c of the general statutes is

46 repealed and the following is substituted in lieu thereof (*Effective*
47 *October 1, 2003*):

48 (c) Failure to provide a notice of claim under subsection (a) of this
49 section shall not bar maintenance of the proceedings if: [there]

50 (1) There has been a hearing or a written request for a hearing or an
51 assignment for a hearing within a one-year period from the date of the
52 accident or within a three-year period from the first manifestation of a
53 symptom of the occupational disease, as the case may be, or if a
54 voluntary agreement has been submitted within the applicable period,
55 or if within the applicable period an employee has been furnished, for
56 the injury with respect to which compensation is claimed, with
57 medical or surgical care as provided in section 31-294d; [. No defect or
58 inaccuracy of notice of claim shall bar maintenance of proceedings
59 unless the employer shows that he was ignorant of the facts
60 concerning the personal injury and was prejudiced by the defect or
61 inaccuracy of the notice. Upon satisfactory showing of ignorance and
62 prejudice, the employer shall receive allowance to the extent of the
63 prejudice.]

64 (2) The employer or its insurer had knowledge of the facts
65 concerning the injury or death giving rise to such claim and the
66 commissioner determines that the employer or its insurer has not been
67 prejudiced by failure to provide a notice of such claim, provided upon
68 satisfactory showing of ignorance and prejudice on the part of the
69 employer, the employer shall receive allowance to the extent of the
70 prejudice;

71 (3) The commissioner excuses such failure on the grounds that (A)
72 such notice of claim, while not given to the employer or a person
73 representing the employer, was given to the employer's insurer or
74 some person whom the employee reasonably believed represented the
75 employer, and (B) the employer or insurer was not prejudiced due to
76 the failure to provide such notice of claim to a person representing the
77 employer;

78 (4) For other satisfactory reason, as determined by the
79 commissioner, such notice could not be given; or

80 (5) The employer does not object to the failure to provide such
81 notice at the first hearing of such claim in which all parties in interest
82 are given reasonable notice and opportunity to be heard.

83 Sec. 3. Section 31-294c of the general statutes is amended by adding
84 subsection (d) as follows (*Effective October 1, 2003*):

85 (NEW) (d) No defect or inaccuracy of notice of claim shall bar
86 maintenance of proceedings unless the employer shows that the
87 employer was ignorant of the facts concerning the injury and was
88 prejudiced by the defect or inaccuracy of notice. Upon satisfactory
89 showing of ignorance and prejudice, the employer shall receive
90 allowance to the extent of the prejudice.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>

LAB *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Workers' Compensation Com.	WCF - Cost	None	None

Note: WCF=Workers' Compensation Fund

Municipal Impact: None

Explanation

This bill extends the circumstances in which a workers' compensation claim can proceed. It is anticipated that allowing certain late claims to proceed will not significantly increase the number of cases brought before the Workers' Compensation Commission (WCC), and thus will not require additional funding.

The bill also requires the workers' compensation commissioner to explain to employees appearing before him, in easily understandable language, each employees rights under the Workers' Compensation Act. This has no fiscal impact on the WCC.

OLR Bill Analysis

sSB 380

**AN ACT CONCERNING INFORMAL WORKERS' COMPENSATION
HEARINGS AND AN ACCIDENTAL FAILURE OF CLAIM STATUTE
FOR WORKERS' COMPENSATION CLAIMANTS****SUMMARY:**

This bill expands the circumstances in which a workers' compensation claim can proceed even though the claimant failed to provide timely notice of claim. Current law provides narrow exceptions to the rule that claims must be filed within one year of the date of the injury or three years of the first manifestation of an occupational disease symptom.

The bill also requires the workers' compensation commissioner to explain to each employee appearing before him, in easily understandable language, the rights, benefits, and responsibilities of employees under workers' compensation law, including the right to request an informal hearing for the evaluation of a disability rating, disfigurement, or scar.

EFFECTIVE DATE: October 1, 2003

NOTICE OF CLAIM***New Exceptions***

The bill allows late claims to proceed if:

1. the employer or its insurer knew the facts concerning the injury or death giving rise to the claim and the commissioner determines that neither has been prejudiced by the failure to provide a timely claim notice;
2. the commissioner excuses the failure on the grounds that the initial claim was given to the employer's insurer or some other person the employee reasonably believed represented the employer, and the employer was not prejudiced due to the failure to provide a timely

notice;

3. the commissioner determines that such notice could not be given for some other satisfactory reason; or
4. the employer does not object to the failure to provide such notice at the first hearing of such claim where all parties have reasonable opportunity to be heard.

Existing Exceptions

By law, and unchanged by the bill, late claims proceed if:

1. there has been a hearing, a written request for a hearing, or an assignment for a hearing within one year of the date of the injury or three years of the first manifestation of an occupational disease symptom,
2. a voluntary agreement has been submitted, or
3. the employer has provided the employee with medical or surgical care for the injury in question.

Under existing law, any exception is also subject to a determination of whether the employer can demonstrate he was ignorant of the facts concerning the injury and whether his position is prejudiced due to the late filing. Upon satisfactory showing of either such consideration, the employer must receive allowance in the case to the extent of the prejudice. The bill extends this provision to all the new exceptions.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 7 Nay 5